IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

OP.No. 9949 of 2003(H)

PETITIONER:

SMT.CHANDRAMATHY, AGED 68 YEARS,
W/O.LATE V.K.KUTTAPPAN, NIKARTHIL HOUSE,
KOKKOTHAMANGALAM VILLAGE, CHERTHALA.

BY ADV. SRI.R.MAYA KRISHNAN

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, ALAPPUZHA.

2. THE MANAGER,
STATE BANK OF TRAVANCORE,
CHERTHALA BRANCH.

BY GOVERNMENT PLEADER
SC – ADV. SHRI.PATHROSE MATHAI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO. 9949/2003

ORDER ON CMP NO. 17149/2003 IN OP NO. 9949/2003

DISMISSED.

06/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF WILL DATED 10/08/1985 EXECUTED BY PETITIONER'S HUSBAND SHRI. KUTTAPPAN

EXT.P2 COPY OF AUCTION NOTICE DATED 18/02/2003 ISSUED BY 1ST RESPONDENT.

RESPONDENT'S EXHIBITS

EXT.R1(a) COPY OF THE JUDGMENT IN OS NO.1092/1999.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 9949 of 2003

Dated, this the 6th day of February, 2007

J U D G M E N T

The petitioner is challenging recovery proceedings for recovery of arrears due from petitioner's son and other co-borrowers. Recovery has to be made against the defaulter and guarantors, if any, and only their property can be proceeded for recovery. If the petitioner's son has no right in the property held by the petitioner, then such property cannot be proceeded for recovery. The respondents are directed to examine the title deeds of the property of the petitioner and if petitioner's son is found to have no right in the property, first respondent will exclude such property from attachment and sale. However, respondents can free to proceed for recovery against the property of the defaulter including petitioner's son and guarantors, if any.

This O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg